

**REMARKS**

Please reconsider the application in view of the following remarks. The Applicants thank the Examiner for carefully considering this application.

**Disposition of Claims**

Claims 1-20 are pending in this application. Claim 1 and 14 are independent. Claims 2-13 depend, either directly or indirectly, from independent claim 1. Claims 15-20 depend directly from independent claim 14.

**Double Patenting**

Claims 1-20 stand rejected in the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-10 of commonly assigned US Patent 7,149,146.

Pursuant to 37 C.F.R. § 3.73(b), the undersigned encloses herewith a terminal disclaimer with respect to U.S. Patent 7,149,146, rendering this rejection moot. Accordingly, withdrawal of the rejection is respectfully requested.

**Rejection(s) under 35 U.S.C. § 103**

Claims 1-20 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 7,149,146 (Kuijk). This rejection is respectfully traversed.

The Applicants respectfully note that Kuijk does not constitute prior art under § 102(e), and thus cannot be used in a rejection under § 103. Under § 102(e), a reference is prior art if its filing date is prior to the Applicants' invention, measured by Applicants' effective filing date. Under MPEP 1893.03(b), the effective filing date of a US national stage application under

§ 371 is the international filing date. In the present case, Kuijk has a § 102(e) date of Dec. 15, 2005, which is after the effective filing date of the present application which is its international filing date, Aug. 2, 2004. Thus Kuijk is not prior art under § 102(e), and therefore is not valid prior art under § 103(a).

### **Conclusion**

The Applicants believe this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned patent attorney at 281.285.3658.

Respectfully submitted,

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Attachments